

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE
LITIGATION

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

THIS DOCUMENT RELATES TO:
State of Iowa v. Abbott Laboratories, et al.

Judge Patti B. Saris

**INDIVIDUAL MOTION TO DISMISS PREVIOUSLY SETTLED CLAIMS
AGAINST SMITHKLINE BEECHAM CORPORATION, D/B/A
GLAXOSMITHKLINE ("GSK")**

Pursuant to Rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure, defendant SmithKline Beecham Corporation, d/b/a GlaxoSmithKline ("GSK"), hereby moves for the dismissal with prejudice of all claims in Iowa's Complaint relating to the pricing and marketing of Zofran and Kytril injectables (NDCs 0029-4149-01, 0029-4152-01, 00173-0042-00, 00173-0042-02 and 00173-0461-00) which were released in a prior Settlement Agreement and Release between GSK and the State of Iowa. The reasons for this Motion are set forth in an accompanying Memorandum of Law in support hereof, which is incorporated herein.

Respectfully submitted,

February 20, 2008

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CERTIFICATE OF SERVICE

I hereby certify that on this day I caused a true and correct copy of the foregoing **INDIVIDUAL MOTION TO DISMISS PREVIOUSLY SETTLED CLAIMS AGAINST SMITHKLINE_BEECHAM CORPORATION, D/B/A GLAXOSMITHKLINE ("GSK") AND MEMORANDUM IN SUPPORT THEREOF** to be served on all counsel of record electronically by causing same to be posted via LexisNexis on this 20th day of February, 2008.

/s/ Frederick G. Herold
Frederick G. Herold